

1 JASON M. FRIERSON  
2 United States Attorney  
3 District of Nevada  
4 Nevada Bar Number 7709  
BLAINE T. WELSH  
5 Nevada Bar Number 4790  
HOLLY A. VANCE  
6 Assistant United States Attorney  
400 South Virginia Street, Suite 900  
Reno, Nevada 89501  
7 Telephone: 775-784-5438  
Blaine.Welsh@usdoj.gov  
8 Holly.A.Vance@usdoj.gov  
*Attorneys for United States*

9

10 **UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

11 George Harris,  
12 Plaintiff,  
13 v.  
14 United States of America,  
15 Defendant.

16 Case No. 2:22-cv-00022-JCM-VCF

17

18 **Stipulation and Order to**  
**Extend Discovery Deadlines**  
**(Second Request)**

19 Pursuant to LR IA 6-1 and LR 26-3, the parties request a 90-day extension of  
20 discovery deadlines as, and for the reasons, set forth below. This stipulation is filed at least 21  
days before the earliest deadline sought to be extended, i.e., the deadline to amend/add  
parties and submit initial expert disclosures.

21 **DISCOVERY COMPLETED**

22 To date, the Parties have engaged in the following discovery:

- 23 • Plaintiff made his initial disclosures on July 7, 2022.
- 24 • Defendant made its initial disclosures on May 24, 2022.
- 25 • Defendant has propounded interrogatories and requests for production of  
documents to Plaintiff, responses which are pending.

26 ///

27 ///

- Plaintiff has propounded interrogatories, requests for admission and requests for production of documents to Defendant. Defendant responded to the requests for admissions, however, responses to the interrogatories and requests for production of documents are pending.

## **DISCOVERY REMAINING**

Discovery has been proceeding in the normal course. However, with AUSA Holly Vance's recent injury and surgery (further explained below), discovery has been delayed. In particular, depositions of VA employees, Michael Mallory, Midyorri Damalerio, and Peter Shubin were set for October 24, 25 and 28, 2022, but have been postponed. They will be rescheduled for future dates and times (likely in mid to late December). Defendant will also likely take the deposition of Plaintiff. Plaintiff and Defendant may also agree to a Rule 35 examination, if so desired by Defendant.

Plaintiff will respond to the interrogatories and requests for production of documents. Defendant will use such discovery responses and HIPAA forms to collect medical records from Plaintiff's providers. Defendant will respond to the Plaintiff's interrogatories and requests for production of documents.

Expert disclosures and depositions remain to be completed. The Parties expect they will retain and disclose multiple experts in this medical malpractice case. In order for the experts to have all evidence available to provide timely reports, the Parties will need an additional 90 days.

The parties reserve the right to engage in other any discovery permitted by applicable rule and within the revised discovery deadlines if the Court approves this stipulation.

## **WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED**

An extension is warranted because AUSA Holly Vance, who is assigned to defend this case, was injured in an accident on October 2, 2022. Based on the information available, AUSA Vance will not be able to resume discovery matters in this case until November 14, 2022, at the earliest. She had surgery on Friday, October 14, 2022 and will

1 be in recovery for an estimated 4-6 weeks. Further, all attorneys in the Civil Division of the  
 2 U.S. Attorney's Office are handling a much higher workload than normal. From December  
 3 18, 2021 until now, four of the 14 attorneys in the civil division have left the office. Two  
 4 more attorneys in the civil division will be transferring to other U.S. Attorney's Offices by  
 5 the end of 2022. Given those vacancies and the increased workloads, the undersigned  
 6 AUSA is unaware of any AUSA who could step into this case and proceed with discovery  
 7 in this case before mid-November 2022, at the earliest.

8 In light of the above, the parties' counsel conferred and agreed that a 90-day  
 9 extension would be proper in order to ensure that the parties can complete fact discovery,  
 10 obtain needed medical records and give time to experts so they can provide timely reports  
 11 and opinions. The parties agree that neither party will be prejudiced by the proposed  
 12 extension, and that they may be prejudiced should the current schedule remain in place.  
 13 The parties agree the extension is sought in good faith.

#### **EXTENSION OF THE DISCOVERY PLAN AND SCHEDULING ORDER**

15 The following table sets forth the current deadlines and the proposed extended  
 16 deadlines that are the subject of this stipulated request:

<u>SCHEDULED EVENT</u>	<u>CURRENT DEADLINE</u>	<u>PROPOSED DEADLINE</u>
Amend or Add Parties	March 14, 2023	<b>June 12, 2023</b>
Initial Expert Disclosure	March 14, 2023	<b>June 12, 2023</b>
Rebuttal Expert Disclosure	April 14, 2023	<b>July 13, 2023</b>
Discovery Cutoff	June 14, 2023	<b>September 12, 2023</b>
Dispositive Motions	July 14, 2023	<b>October 12, 2023</b>
<u>Proposed</u> Joint Pretrial Order	August 14, 2023	<b>November 13, 2023<sup>1</sup></b>

23           ///

24           ///

25           ///

---

27           <sup>1</sup> However, if dispositive motions were to be filed, the deadline for the Proposed Joint Pretrial  
 28 Order would be deferred until 30 days after the Court rules on the dispositive motions.

1        This request for an extension of time is not sought for any improper purpose including  
2 delay. This is the second request for an extension of discovery deadlines in this matter.

3        Respectfully submitted this 21st day of October 2022.

4 SIMON LAW

JASON M. FRIERSON  
United States Attorney

5        /s/ Benjamin Miller  
6 BENJAMIN MILLER, ESQ.  
7 Nevada Bar No. 10406  
8 810 S. Casino Center Blvd.  
Las Vegas, NV 89101  
*Attorneys for Plaintiff*

5        /s/ Blaine Welsh  
6 BLAINE WELSH  
7 Assistant United States Attorney  
*Attorneys for the United States*

12        IT IS SO ORDERED.



13        \_\_\_\_\_  
14 Cam Ferenbach  
15 United States Magistrate Judge

16        DATED 10-21-2022

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28